

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

Scott L. Reynolds,

Debtor.

Chapter 7

Bankruptcy No. 22-08580

Hon. David D. Cleary

NOTICE OF MOTION

PLEASE TAKE NOTICE that on **Wednesday, January 4, 2023, at 10:00 a.m.**, or as soon thereafter as counsel may be heard, the undersigned attorneys shall appear before the Honorable David D. Cleary, United States Bankruptcy Judge for the Northern District of Illinois, or any judge sitting in his place and stead, either in courtroom 644 of the Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, IL 60604, or electronically as described below, and shall then and there present the **Motion of Deborah K. Ebner, Trustee, to Approve Settlement with Scott Reynolds**, a copy of which is attached.

All parties in interest, including the movant, may appear for the presentment of the motion either in person or electronically using Zoom for Government.

You may appear electronically by video or by telephone.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and password.

Meeting ID and password. The meeting ID for this hearing is 161 122 6457 and the password is Cleary644. The meeting ID and password can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without calling it.

Deborah K. Ebner, not
individually, but as Trustee for the
estate of Scott L. Reynolds,

By: /s/ Ariane Holtschlag
One of Her Attorneys

Ariane Holtschlag (6294327)
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105 W. Madison, Suite 1500
Chicago, IL 60602
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CERTIFICATE OF SERVICE

I, Ariane Holtschlag, an attorney, hereby certify that on December 7, 2022, pursuant to Section II.B.4 of the Administrative Procedures for the Case Management/Electronic Case Filing System and Fed.R.Civ.P. 5(a), I caused a copy of the foregoing *Notice of Motion* and the accompanying *Motion* to be served electronically through the Court's Electronic Notice for Registrants on all persons identified as Registrants on the below Service List and by U.S. mail on all other persons identified on the attached Service List.

/s/ Ariane Holtschlag

SERVICE LIST

Registrants

(Service via ECF)

Robert N Honig

robert@roberthonig.com;
r50690@notify.bestcase.com

Deborah Kanner Ebner

dkebner@debnertrustee.com;
dke@trustesolutions.net;
IL53@ecfcbis.com;
webmaster@debnertrustee.com;
lizd@deborahEbnerlaw.com

Patrick S Layng

USTPRegion11.ES.ECF@usdoj.gov

Non-Registrants

(Service via U.S. Mail)

See attached list.

Associated Bank
1305 Main St.
Stevens Point, WI 54481-2898

American Express
PO Box 96001
Los Angeles, CA 90096-8000

American Express National Bank
c/o Becket and Lee LLP
PO Box 3001
Malvern PA 19355-0701

Bank of America, N.A.
PO Box 673033
Dallas, TX 75267-3033

Associated Bank, N.A.
1305 Main Street
Stevens Point, WI 54481-2898

Bank of America
P.O.Box 851001
Dallas, TX 75285-1001

Citibank, N.A.
5800 S Corporate Pl
Sioux Falls, SD 57108-5027

JPMORGAN CHASE BANK N A
BANKRUPTCY MAIL INTAKE TEAM
700 KANSAS LANE FLOOR 01
MONROE LA 71203-4774

CITIBANK
PO BOX 790034
ST LOUIS MO 63179-0034

Regions Bank
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Discover
P.O. Box 6103
Carol Stream, IL 60197-6103

Discover Bank
Discover Products Inc
PO Box 3025
New Albany, OH 43054-3025

Sofi Bank, National
2750 Cottonwood Pky
Ste. 300 Association
Salt Lake City, UT 84121-7285

Kimberly D Reno
Heavner, Beyers & Mihlar, LLC
601 E William Street
Decatur, IL 62523-1142

JPMorgan Chase Bank, N.A.
s/b/m/t Chase Bank USA, N.A.
c/o National Bankruptcy Services, LLC
P.O. Box 9013
Addison, Texas 75001-9013

Upstart Network, Inc
PO BOX 1931
Burlingame, CA 94011-1931

UPGRADE INC
2 N CENTRAL AVE
10TH FLOOR
PHOENIX AZ 85004-2322

Prosper Funding LLC
221 Main Street, Suite 300
San Francisco, CA 94105-1909

Upstart Network Inc.
2950 South Delaware Street
San Mateo, CA 94403-2580

Scott L. Reynolds
5210 Howard Avenue
Western Springs, IL 60558-2049

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

Scott L. Reynolds,

Debtor.

Chapter 7

Bankruptcy No. 22-08580

Hon. David D. Cleary

MOTION TO APPROVE SETTLEMENT WITH SCOTT REYNOLDS

Deborah K. Ebner, not individually but in her capacity as the trustee (the “**Trustee**”) for the bankruptcy estate (the “**Estate**”) of Scott L. Reynolds (the “**Debtor**”), respectfully requests that the Court enter an order pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure approving the settlement reached between the Trustee and the Debtor, resolving the Estate’s interest in real estate commonly known as 5210 Howard Avenue in Western Springs, IL 60558 (the “**Property**”). Pending approval by this Court, the Parties have reached a settlement on the terms and conditions set forth in the Settlement Agreement (the “**Settlement**”) attached as **Exhibit 1**.

In support of this motion, the Trustee respectfully states as follows:

JURISDICTION

1. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, and Local Rule 40.3.1(a) of the United States District Court for the Northern District of Illinois.
2. Venue of the above-captioned case (the “**Case**”) and of this motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).

BACKGROUND

4. The above-captioned bankruptcy case (the “**Case**”) was commenced on July 29, 2022 (the “**Petition Date**”), when the Debtor filed a voluntary petition for relief under Chapter 7 of title 11, United States Code (11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”)), in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division.

5. The Trustee was appointed as the interim trustee in the Case pursuant 11 U.S.C. § 701 and now serves as the permanent trustee in the Case. The Trustee is duly qualified and has all the powers of a trustee under, among other provisions, 11 U.S.C. § 704.

6. On Schedule A/B, the Debtor disclosed an ownership interest in real estate commonly known as 5210 Howard Avenue in Western Springs, IL 60558 (the “**Property**”). Document no 1817829125 recorded with the Cook County Recorder of Deeds on June 27, 2018 reflects that the Debtor holds title to the Property not individually, but jointly with his non-filing spouse, Lauren Reynolds, as tenants by the entirety.

7. On Schedule A/B the Debtor disclosed the value of the Property as \$735,000. On Schedule C, the Debtor asserts exemptions in the Property under 735 ILCS 5/12-901 in the amount of \$15,000 and 735 ILCS 5/12-112 in the amount of 100%. On Schedule D, the Debtor disclosed that the Property is encumbered by a mortgage lien securing a note with a balance of \$535,854.02.

8. The Debtor scheduled general unsecured debts of approximately \$232,912.65.

9. The Trustee asserts that the Debtor is not entitled to exempt his ownership interest in the Property under 735 ILCS 5/12-112 due to “tenants by the entirety” because the Debtor’s debts constitute “family expenses” within the meaning of 750 ILCS 65/1 *et seq.*

10. The Trustee and the Debtor propose to resolve this controversy on the terms contained in the proposed settlement agreement attached as

Exhibit 1, namely: the Debtor must pay to the Trustee \$40,000 (the “Settlement Sum”) to the Trustee on or before December 21, 2022 and in exchange the Trustee waives any interest in the Property and any right to seek dismissal of the Case under 11 U.S.C. 707.

11. The Trustee respectfully requests that this Court approve the proposed settlement agreement attached as **Exhibit 1**.

DISCUSSION

12. A trustee may settle or compromise a dispute with bankruptcy court approval. Fed. R. Bankr. P. 9019. “A bankruptcy court may approve a settlement agreement only if it is in the best interest of the bankruptcy estate.” *In re Holly Marine Towing, Inc.*, 669 F.3d 796, 801 (7th Cir. 2012). “The linchpin of the ‘best interests of the estate’ test is a comparison of the value of the settlement with the probable costs and benefits of litigating.” *In re Doctors Hosp. of Hyde Park, Inc.*, 474 F.3d 421, 426 (7th Cir. 2007) (citing *In re Energy Coop.*, 886 F.2d 921, 927 (7th Cir. 1989)). “Among the factors the court considers are the litigation’s probability of success, complexity, expense, inconvenience, and delay, ‘including the possibility that disapproving the settlement will cause wasting of assets.’” *Id.* (quoting *LaSalle Nat’l Bank v. Holland (In re Am. Reserve Corp.)*, 841 F.2d 159, 161 (7th Cir. 1987)).

13. “As part of this test, the value of the settlement must be reasonably equivalent to the value of the claims surrendered. This reasonable equivalence standard is met if the settlement falls within the reasonable range of possible litigation outcomes. Because litigation outcomes cannot be predicted with mathematical precision, only if a settlement falls below the low end of possible litigation outcomes will it fail the reasonable equivalence standard.” *Id.* (citations omitted); accord *In re Telesphere Commc’ns, Inc.*, 179 B.R. 544, 553 (Bank. N.D. Ill. 1994). This determination should be weighted in favor of settlement, and a challenged

settlement will fail the test only if it falls below the lowest point in the range of reasonableness. *Telesphere*, 179 B.R. at 553.

14. Here, the settlement meets the above-cited standards for judicial approval and comports with the public policy considerations favoring settlements generally. The settlement saves the Estate the expense and uncertainty of further litigation concerning the matters resolved thereby, and the Trustee submits that the outcome for allowed creditors of the Estate is well within the range of possible litigation outcomes.

15. The Trustee submits that the proposed settlement is the product of good faith, arms'-length negotiations between the Trustee and the Debtor, is fair and equitable, and is mutually satisfactory to the parties.

16. For these reasons, the Trustee respectfully submits that the proposed settlement is in the best interests of the Estate.

NOTICE

17. At least twenty-one days' notice of this motion has been given to: (i) the Office of the United States Trustee; (ii) the Debtor; (iii) the Debtor's counsel; (iv) the Debtor's creditors as scheduled; and (v) any person that has requested notice in the case or that receives notices through the ECF System with respect to the Case.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the settlement on the terms outlined herein and granting such other and further relief as this Court may deem just and appropriate.

Deborah K. Ebner, not individually
but as the chapter 7 trustee of the
bankruptcy estate of Scott L.
Reynolds,

By: /s/ Ariane Holtschlag
One of His Attorneys

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